

Morgan Stanley

October 11, 2011

Ms. Jennifer Johnson, Secretary
Board of Governors of the Federal Reserve System
20th Street and Constitution Avenue, NW
Washington, D.C. 20551

Re: **OMB control number 7100-0297**

Request for Comment on Information Collection Proposals affecting the following reports:
FR Y-10 Report of Changes in Organizational Structure; FR Y-6 Annual Report of Bank Holding Companies; and FR Y-7 Annual Report of Foreign Banking Organizations.

Dear Ms. Johnson,

Morgan Stanley is pleased to have this opportunity to comment on proposed changes to the Federal Reserve structure reporting forms FR Y-10, FR Y-6 and FR Y-7. Overall, we find the proposed changes to be well thought out and reasonable and we commend the effort.

Our commentary, which is limited to the proposed changes to the FR Y-10 and FR Y-6, reflects careful review of the proposed changes. In several instances, it also addresses items that are not marked for revision but have generated questions or a need for clarification.

FR Y-10 Report of Changes in Organizational Structure

1. General Instructions: Introduction

FR Proposed Change: *Delete reference to the Appendices A and B -- respectively listing FRB Legal Authority Codes and NAICS activity codes for commonly reported activities -- from the itemized list of discrete sections of the FR Y-10 form*

Morgan Stanley Comment: While the proposed revision deletes all reference to an Appendix, the revised guidance for Item 17 of the Nonbanking Schedule says to "Consult the Appendix of these instructions and choose the appropriate FRS legal authority code.". This would seem to indicate that Appendix A is to be retained in some form, and for completeness, should be referenced in this section of the Introduction.

Board Staff might also consider keeping a modified version of the Appendix B schedule that mapped the old FRB alphanumeric codes to NAICS codes. The alphanumeric codes have little or no currency and could be deleted. But the mapping of financial-in-nature activities to the corresponding NAICS codes continues to be relevant. Infrequent Reporters may find it helpful to have this mapping formatted as a table that is sorted on the "Board Activity".

2. Nonbanking Schedule:

(a) Specific Instructions: Interests in Nonbanking Companies - Annotated text and Footnote 11

FR Proposed Change: *None proposed.*

Morgan Stanley Comment: The annotated text and corresponding footnote describe an abbreviated reporting requirement for "any company (even if it does not otherwise meet the reporting criteria) that is

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both a subsidiary of the Reporter and a parent of the subject Nonbanking Company.¹¹ According to footnote 11, "a Reporter need only report information in response to Items 2.a, 3.a, 12, 13 and 14 with respect to a company that does not otherwise meet the reporting criteria but is both a subsidiary of the Reporter and a parent of a Nonbanking Company."

Morgan Stanley would like to avail itself of this opportunity for less detailed reporting, but we are not sure how a company that is a subsidiary of a BHC/FHC and parent of another Nonbank Company could "not otherwise meet the reporting criteria". Would this be an intermediate shell holding company? We suggest providing an example to clarify this.

(b) Item 3.a - City and County (Physical Location); State/Province, Country, Zip/Postal Code, and State and Country of Incorporation

FR Proposed Change: *Insert the words "Physical Location" and expand the data request to include "State and Country of Incorporation"*

Morgan Stanley Comment: Inserting the words "Physical Location" and a reference to the Glossary provide helpful clarification on the Nonbanking Schedule. However, reporting the "State of Incorporation" could be burdensome with respect to non-U.S. entities, if this data element is mandatory. Among other things, the Y-10 Online application will reject a submission whenever a mandatory field is left blank.

"State of Incorporation" is not included in the standard data set we presently collect for entities formed outside the United States. And while it would not be so difficult to create this field in our Corporate Secretarial and Regulation Y reporting systems, the task of populating the field is complicated by having to identify the local equivalent of "State of Incorporation" in each foreign country. Moreover, when effect is given to the size of our reported population, it becomes a major undertaking to provide the "State of Incorporation" for all entities listed in the Item 2 Organization Chart of our FR Y-6 Annual Report. So unless the value of this information can be clearly articulated, we believe that reporting "State of Incorporation" for entities formed outside the United States should be optional.

Morgan Stanley believes a reasonable approach would be to make "State of Incorporation" a mandatory data element for entities incorporated in the United States and optional for all others. In addition, we note that the current drop-down menu of States and U.S. Territories in the Y-10 Online application could be used for this item on both the Banking and Nonbanking Schedules, if selections such as "Federal" and "Federal Reserve" are added to accommodate the variety of federally chartered banking and nonbanking entities reported on these forms.

(c) Item 4. – Functional Regulator

FR Proposed Change: *None proposed.*

Morgan Stanley Comment: No text changes are proposed for this line item. However, Board staff might consider adding guidance on the reasons for excluding self-regulatory bodies such as FINRA and NFA from the list of "Functional Regulators". As these bodies are delegated more and more responsibility for performing oversight functions within the purview of the SEC and CFTC, their role in carrying out regulatory functions on behalf of the SEC and CFTC has increased, and we suggest that they could properly be viewed as functional regulators for purposes of Regulation Y reporting.

(d) Item 13.a, 13.b and 13.c

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FR Proposed Change: *The instructions for Items 13.a - Percentage of a Class of Voting Shares and 13.b - Other Interest direct Reporters to Item 13.c. whenever the Nonbanking entity is a Partnership or Limited Liability Company. Item 13.c -- which is altogether new -- asks the Reporter to indicate whether the given direct holder is a General Partner/Managing Member or a Limited Partner/Non-Managing Member.*

Morgan Stanley Comment: In our view, proposed item 13.c is a useful addition for reporting general and limited partnerships and limited liability companies. We also note that it will be necessary for the Y-10 Online edit checks to recognize and accept situations where a reporter is a Limited Partner or Non-Managing Member but nevertheless controls the Nonbanking Company under the Bank Holding Company Act -- i.e., a combination of **Item 13.c** = Limited Partner/Non-Managing Member and **Item 14 - Control by Direct Holder** = YES. A Non-Managing Member or Limited Partner could have control of the Nonbanking Company whenever an LLC or Limited Partnership is managed by a board of directors or trustees or a General Partner that Non-Managing Members or Limited Partners can vote for, and the reporter has 25% or more of such voting rights. Another example is the situation where the reporter's only interest is a nonvoting LLC or limited partnership interest representing more than one-third of equity. Finally, we would note that the Item 13.c / Item 14 combination could be validated if a reporter who responds to Item 13c is also required to select one of the following:

- ☐ Voting interest \geq 25%
- ☐ Nonvoting interest > 33.3% equity
- ☐ Not applicable

(e) Item 14.- Control by Direct Holder

FR Proposed Change: *None proposed.*

Morgan Stanley Comment: No text changes are proposed for this line item. However, Board staff might consider including examples on the Y-10 Online application that illustrate the correct Item 14 responses when reporting multiple direct holders of the same entity. To facilitate this, we have included, as Attachment A, a grid showing complex multi-holder relationships wherein the Item 14 Control response is not immediately clear.

(f) Items 17.a and 17.b - Activity and Legal Authority Section

FR Proposed Change on the Form: *Edit the reference to "Appendices A and B" to read "the Appendix of these instructions"*

FR Proposed Change in the Instructions: *Delete the reference to "Appendix B" -- which provided NAICS activity codes for commonly reported activities -- and instruct Reporters to select the most appropriate code from the list of NAICS codes posted on the Census Bureau website*

Morgan Stanley Comment: Our page 1 comments address these response items. To summarize briefly: i) there is no reference to an Appendix in the contents listing at page 1 of the General Instructions although an Appendix is anticipated here; and ii) consideration might be given to keeping the simple mapping of financial-in-nature activities to NAICS codes that was heretofore included at Appendix B.

3. 4(k) Schedule:

(a) Specific Instructions for the 4(k) Schedule

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FR Proposed Change: *None proposed.*

Morgan Stanley Comment: The 4(k) Schedule is unusual insofar as it “mixes apples and oranges” -- i.e., the upper half reports **financial-in-nature** activities commenced by an FHC and its subsidiaries, while the lower half discloses the large **nonfinancial** investments held by a qualified FHC and certain subsidiaries. So it was surprising to realize that the 4(k) schedule and related instructions uniformly refer to a financial-in-nature subsidiary and its nonfinancial investment as a “Nonbanking Company”. Moreover, an automated search did not find the term “nonfinancial” anywhere in either draft of the schedules and instructions. This has the potential to create confusion, particularly for organizations that have converted to FHC status relatively recently. The current initiative affords an opportunity to differentiate financial-in-nature entities that are controlled for purposes of Regulation Y from nonfinancial entities held under the merchant banking and insurance company investment authority of GLBA by using the term “Nonfinancial Company” when referring to merchant banking and insurance company investments.

(b) Item 1.a - Event Type

FR Proposed Change: *This is a new “check one only” data field with the following selections:*

- ☐ *Initial Investment*
- ☐ *Changes to Initial Investment (Item 4)*
- ☐ *Divestitures (or closure)*

Morgan Stanley Comment: The “(Item 4)” qualifier on “Changes to Initial Investment” would seem to indicate that changes in the cost of investment are not reportable. Confirmation/clarification of this would be helpful.

It is also noted that **Item 1.a. – Event Type** does not include a selection for “No Longer Reportable”. Does this mean that there is no *de minimis* level of ownership or cost that allows a Reporter to remove a Merchant Banking or Insurance Company investment from the Y-10 / Y-6 population, once the initial 2-prong test has been met – i.e., it can only be removed by divestiture or closure? Clarification is needed as to the Board’s intent.

(c) Item 4 - Direct Holders Investment in Nonbanking Company

FR Proposed Change: *Reporting Changes to Initial Investment.*

Morgan Stanley Comment: The revised form and draft instructions do not indicate whether subsequent reporting will be predicated on the magnitude of change. In our view, reporting every incremental change can be burdensome even when there are only a handful of investments; and this exceeds the requirement for reporting ownership of financial entities that are deemed to be controlled for purposes of Regulation Y. For these, the Board decided 10 years ago to “reduce burden” by establishing ownership ranges of 20 to 30 percentage points and requiring a change to be reported only when an increase or decrease resulted in movement from one range to another or rendered the interest no longer reportable.

Morgan Stanley submits that a metric also be applied to Large Merchant Banking and Insurance Company Investments. Parity suggests the establishment of ranges for change reporting or imposing a notice requirement that is triggered when the interest has increased or decreased by some number of percentage points from the last reported figure. An interval of 20 percentage points (2000 basis points) is comparable to the ranges established for reporting changes in ownership of nonbank subsidiaries.

(d) Item 5 - Initial Aggregate Cost of investment to FHC (in millions of U.S. dollars)

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FR Proposed Change: *None proposed.*

Morgan Stanley Comment: The draft text of Item 5 is unchanged from the prior publication, and it still includes the final sentence that says: "Changes to or divestiture of the investment are not reportable events." This statement is no longer inaccurate and might be replaced with a statement that clarifies/confirms whether any type of cost change is reportable.

Should the Federal Reserve decide to require incremental changes in Item 5 cost data to be reported, Morgan Stanley believes a 20% increase or decrease in the last reported cost would be a reasonable threshold.

FR Y-6 Annual Report of Bank Holding Companies

4. Report Item 2a: Organization Chart


FR Proposed Change: *Introduce "3. State and Country of Incorporation" as a report item to be provided for each Legal Entity in the Organization Chart*

Morgan Stanley Comment: As we noted in our comments on the proposed changes to Item 3.a of the FR Y-10 Nonbanking Schedule, reporting the "State of Incorporation" could be burdensome with respect to non-U.S. entities, if it is a mandatory field on the Item 2.a: Organization Chart. Morgan Stanley is a large reporter that has not routinely collected this information for entities formed outside the United States. Obtaining this data for the Y-6 submission due March 31, 2012, is a significant undertaking that is complicated by having to determine what the local equivalent of "State of Incorporation" might be in a given country. So unless the value of this information can be clearly articulated, we believe that reporting "State of Incorporation" for entities formed outside the United States should be optional.

Should the Board persist in making "State of Incorporation" a mandatory field for U.S. and non-U.S. entities, Morgan Stanley would urge the Board to accept best efforts reporting of foreign data in the Y-6 report due March 30, 2012, and commence mandatory reporting with submission of the Y-6 Annual Report due March 31, 2013.

We appreciate the opportunity to comment on the Board's proposal and thank you for your consideration of the comments in this letter. Please direct any questions regarding specific comments and suggestions to Jo Malins, Vice President, at 212-276-9860 or M.Jo.Malins@morganstanley.com.

Very truly yours,



Wayne Powers
Executive Director

Cc: Kenneth Lamar, Senior Vice President
Jan Voigts, Examiner-in-Charge
Federal Reserve Bank of New York

Jacqueline LiCalzi, Managing Director
Fred Gonfiantini, Managing Director
Morgan Stanley

Attachment

Corporation (U.S. form) or equivalent	% Voting Shares	% Total Equity	Other Interest	Control by DH Yes / No
Reporter controls Multiple Entities holding voting shares with disproportionate % of equity; Direct Holder #3 also holds nonvoting shares				
Direct Holder 1	60	10	blank	
Direct Holder 2	30	5	blank	
Direct Holder 3	10	85	YES	
Reporter controls Multiple Entities that each hold a voting interest that is not individually controlling; Reporter's aggregate vote is > or = 25%				
Direct Holder 1	10	10	blank	
Direct Holder 2	10	10	blank	
Direct Holder 3	10	10	blank	

Limited Partnership (U.S. form) or equivalent	% Voting Shares	% Total Equity	Control by DH Yes / No
Reporter controls General Partner serving with or without equity interest			
Direct Holder/General Partner	0	0% to X%	
Direct Holder with LP interest	0	(100% - X%) > 33.33%	
Reporter controls multiple LPs that each hold a non-controlling limited partnership interest. Reporter's aggregate equity interest is >33.33%			
MS Direct Holder 1	0	15	
MS Direct Holder 2	0	15	
MS Direct Holder 3	0	15	
3rd Party General Partner(s)	0	55	

Limited Liability Company (U.S. form) or equivalent	# of seats controlled by member	% Total Equity	Managing Member Yes / No	Control by DH Yes / No
Reporter controls Multiple Members with or without equity interest/ 3 member board				
Direct Holder 1	3	0% to X%		
Direct Holder 2	0	(100% - X%) > 33.33%		
Multiple Members / 3 member board; rights are evenly weighted but not proportional to economic interest				
Direct Holder 1	1	5		
Direct Holder 2	1	5		
Direct Holder 3	1	10		
Direct Holder 4	0	80		
Multiple Members /10 board seats; rights are unevenly weighted and not proportional to economic interest				
Direct Holder 1	4	10		
Direct Holder 2	4	10		
Direct Holder 3	2	10		
Direct Holder 4	0	70		
Multiple Members /10 board seats; Reporter's subsidiaries control one or board seats but none holds an individually controlling interest.				
MS Direct Holder 1	1	10		
MS Direct Holder 2	2	20		
MS Direct Holder 3	1	10		
3rd Party Direct Holder(s)	6	60		